

APPEAL NO. 032897
FILED DECEMBER 12, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on October 3, 2003. The hearing officer determined that the respondent's (claimant) compensable broken left thumb, face and arm abrasions, and low back injury of _____, extends to include a cervical injury.

The appellant (carrier) appeals, citing evidence from its required medical examination (RME) doctor that the claimant's cervical condition "is a process of degenerative change," and appears to have developed during a long period of inactivity. The claimant responds, urging affirmance.

DECISION

Affirmed.

The claimant, a welder, sustained his compensable injury on _____, when he slipped and fell three or four feet off a beam. While the claimant initially complained of neck discomfort, active treatment of the cervical injury did not start until some months later (February 2002). An MRI performed on July 8, 2002, showed disc herniations at several levels. The hearing officer references a referral doctor's report that concluded that the claimant's cervical injury was related to the compensable fall. The carrier RME doctor and a peer review doctor conclude otherwise.

There was conflicting evidence presented on the disputed issue. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the fact finder, the hearing officer was charged with the responsibility of resolving the conflicts and inconsistencies in the evidence and deciding what facts the evidence had established. This is equally true of medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was acting within her province as the fact finder in resolving the conflicts and inconsistencies in the evidence against the carrier. Nothing in our review of the record reveals that the challenged determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Accordingly, no sound basis exists for us to disturb those determinations on appeal.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **BANKERS STANDARD INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**MARCUS CHARLES MERRITT
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 200
IRVING, TEXAS 75063.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Edward Vilano
Appeals Judge